

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

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CC:ITA:4
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Date:
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LEGEND

Year 1	=
Year 2	=
Property A	=
Property B	=
\$C	=
\$D	=
\$E	=
F	=
\$G	=
\$H	=

Dear :

This letter refers to your request to revoke an election out of installment method reporting under § 453(d)(3) of the Internal Revenue Code and § 15a.453-1(d)(4) of the Temporary Regulations under the Installment Sales Revision Act of 1980.

FACTS

In Year 1, you sold Property A and Property B to unrelated third parties. You sold Property A for \$C, receiving \$D of cash and a promissory note for \$E payable in F months. You sold Property B for \$G, receiving \$D of cash and a promissory note for \$H payable in F months. Inadvertently, your accountant did not report the gain from the sales on the installment method but instead reported all of the gain on your Year 1 federal income tax return. You first became aware of the error when your accountant began to prepare your Year 2 federal income tax return. You then requested this ruling.

LAW AND ANALYSIS

Section 453(a) provides that income from an installment sale is taken into account under the installment method. Section 453(d)(1) provides that § 453(a) does not apply to any disposition if the taxpayer elects not to have § 453(a) apply to the disposition. Section 453(d)(2) provides that, except as otherwise provided by regulations, an election under § 453(d)(1) for a disposition may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return for the taxable year in which the disposition occurs. The election is made in the manner prescribed by the regulations.

Section 453(d)(3) provides that an election under § 453(d)(1) for any disposition may be revoked only with consent of the Secretary.

Section 15a.453-1(d)(4) states that an election out of the installment method may be revoked only with consent of the Internal Revenue Service. A revocation is retroactive. A revocation will not be permitted when one of its purposes is the avoidance of federal taxes, or when the taxable year in which any payment was received is closed.

You represent that your accountant did not prepare your Year 1 federal income tax return in accordance with your intent to report the sales of Property A and Property B on the installment method. Your accountant represents that he should have reported the sales of Property A and Property B on the installment method. As soon as you became aware of the error, you requested consent to revoke the election out of the installment method.

CONCLUSION

Based on the information submitted and the representations made, we conclude that your election out of the installment method reporting for the sales of Property A and Property B was due to inadvertence rather than hindsight or a purpose of avoiding federal taxes.

Accordingly, you may revoke your election out of the installment method reporting for the sales of Property A and Property B but only if you revoke the election during the period ending 75 days after the date of this letter by filing an amended federal income tax return for Year 1.

CAVEATS

We do not express or imply an opinion concerning the tax consequences of any aspect of these transactions other than those expressed under CONCLUSION, above. For example, we do not express or imply an opinion concerning how much (if any) of the gain on the sales of Property A and Property B qualifies for installment method reporting under § 453 or whether the sales were dealer dispositions under § 453(b)(2).

We based the rulings contained in this letter upon information and representations that you and your accountant submitted under the penalties of perjury. While we have not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

You must attach to any income tax return to which it is relevant a copy of this letter or, if you file your returns electronically, a statement providing the date and control number of this letter ruling.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Attached is a copy of the letter showing the deletions proposed to be made when it is released under § 6110.

In accordance with the Power of Attorney on file with this office, we are sending a copy of this letter to your authorized representative.

Sincerely,

Michael J. Montemurro
Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)